* **HIGH COURT OF DELHI : NEW DELHI**

Date of decision: August 27, 2007

\+ **W.P (C) No. 6320 OF 2007**

% Shri Om Prakash Hans .....Petitioner

Through: Mr. P.K.Sharma, Advocate

versus

The District & Sessions Judge & Ors. ..... Respondents
Through: Ms.Latika Choudhary, Advocate.

CORAM:

HON”BLE MR.JUSTICE A.K.SIKRI
HON'BLE MR. JUSTICE VIPIN SANGHI

1. Whether the Reporters of local papers may be allowed to see the judgment?

2. To be referred to Reporter or not?

3. Whether the judgment should be reported in the Digest?

A.K.SIKRI, J (Oral)

*

1. The petitioner was appointed as Steno-Typist in the Office of Sales Tax on 29.11.1965. Thereafter, in the year 1969 he joined the office of District and Sessions Judge, Delhi as

Stenographer. In this capacity, petitioner worked till 3.10.1979 whereafter, he resigned from the services and enrolled himself as an Advocate with the Bar Council of Delhi. Since then he is a practicing lawyer. Petitioner thus worked first in Sales Tax Office, attached to Government of NCT, Delhi for few months and thereafter for about 10 years with District and Sessions Judge, Delhi.

2. Normally, with this 10 years' service, petitioner is not entitled to any pension. However, he made a request for grant of prorata pension on the ground that after leaving the Government job he started his own practice as a lawyer which is in "public interest" and therefore he is entitled to prorata pension. For this submission, he relies upon OM dated 3rd January, 1995 issued by Government of India, Ministry of Personnel, Public Grievances & Pensions (Department of Pension and Pensioners Welfare). The said OM, which was issued pursuant to the judgment of the Supreme Court in the Case of ***T.S. Thiruvengadam vs. Secretary to Government of India*** (1993) 2 SCC 174 entitles a Government Servant to get prorata pension on such Government servant being absorbed in the Central Public Sector Undertaking, where such an absorption is in public interest. Therefore, as per

this office memorandum 2 conditions are to be satisfied, namely, 1) the concerned employee is absorbed in the Central Public Sector Undertaking & 2) such a absorption is treated as one in "Public Interest".

3. In the present case neither of the 2 conditions are satisfied. Petitioner, did not join any Central Public Sector Undertaking and instead started his own private practice as an advocate. Thus, it is the private profession which the petitioner undertook as his vocation. The concept of "Public Interest" is contextual and is to be seen in the facts of a specific case. In the context of office memorandum dated 3rd January, 1995 it would have relevance only when a person joins Public Sector Undertaking and thus the question that would call for consideration is whether such an absorption in Public Sector Undertaking is in public Interest or not. It would not apply to those who started there own profession or business after leaving the Government job.

4. Learned counsel for the petitioner submits that the experience of the petitioner at the Bar should be counted as service rendered in public Interest and on counting of this experience he would be entitled to pension. This is a totally

misconceived contention on behalf of the learned counsel for the petitioner.

5. We do not find any merit in this petition which is accordingly dismissed.

A.K.SIKRI, J.

VIPIN SANGHI, J.

August 27, 2007
aruna